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**NDIS Quality  
and Safeguards  
Commission**



# Operational Protocol for NDIS participants at risk.

As agreed between the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission

**Date: July 2022**

For internal staff use only – not for distribution

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## Version Control

<b>Date Amended</b>	<b>Version Number Amended</b>	<b>Key Changes</b>	<b>New Version Number</b>
Nov 2021- June 2022	V0.0-V0.4	Initial draft, incorporating feedback between both parties. Consultation <ul style="list-style-type: none"> <li>- NDIA (National Delivery; Government Relations)</li> <li>- NDIS Commission (Policy and Strategy)</li> </ul>	V0.5 – <i>DRAFT</i>
July 2022	V0.5	Endorsed and published by both NDIA and the NDIS Commission	<b>V1.0</b>

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# About the Operational Protocol

The National Disability Insurance Agency (NDIA) and the NDIS Quality and Safeguards Commission (NDIS Commission) agreed an information sharing Statement of Intent in June 2018 to work collaboratively in supporting each other to perform individual and shared responsibilities under the *National Disability Insurance Scheme Act 2013* (NDIS Act).

The NDIA and NDIS Commission each have authority under sections 60 and 66 (the NDIA), 67A and 67E (the NDIS Commission) of the NDIS Act to disclose information to each other:

- For the purpose of the NDIS Act this includes purposes that are relevant to achieve the functions of each under the Act;
- With the express or implied consent of the person to whom the information relates (including consent of an authorised representative). Where practicable, express consent will be sought rather than relying on implied consent;
- If either party reasonably believes that the disclosure of the information is for the purpose of, or in relation to, preventing or lessening a threat (whether current or future) or reporting a past threat, to an individual's life, health or safety; or
- Where the CEO of the NDIA or Commissioner of the NDIS Commission is satisfied on reasonable grounds that it is in the public interest to disclose the information;

This Operational Protocol is agreed between the NDIA and the NDIS Commission.

The NDIA and NDIS Commission will jointly monitor the implementation of this Operational Protocol and review its operation every 6 months.

## 1. Purpose

The National Disability Insurance Agency (NDIA) and the NDIS Quality and Safeguards Commission (NDIS Commission) are committed to supporting NDIS participants who, through data and risk indicators and assessment, are identified as 'at risk'.

This protocol is consistent with the principles of the NDIS Act 2013 which gives effect to Australia's obligations under the UN Convention on the Rights of Persons with Disabilities (UNCRPD). Particularly that people with disability have the right to fulfil their potential and live free from harm; including violence, abuse, neglect, exploitation and discrimination. Following the 2020 Robertson Review failings were identified in how the NDIS Commission and the NDIA carried out their functions and a number of recommendations were made in order to help strengthen supports for participants at risk. This protocol addresses Recommendation 1 of that review.

The 2021 *NDIS Amendment (Improving supports for at risk participants) Bill (Bill)* further strengthens the NDIS Commissioner's compliance and enforcement powers with the intent to fortify supports and protections for NDIS participants. This Bill amends provisions in the NDIS Act to support the implementation of changes in response to Robertson Review recommendations 1, 5, 6, 7, 8 and 9, and improves supports and protections provided to NDIS participants.

This protocol will outline the roles and responsibilities of the NDIA and NDIS Commission in order to identify and respond to matters for participants who are identified as being at risk, in a timely manner.

## 2. Relevant Areas of Interface

### Priority work intersection

Once fully implemented, this protocol will inform the NDIA Participant Safety policy, as well as work the NDIA is completing on family violence orders and support for decision-making.

This protocol will also complement escalations and reporting mechanisms, such as:

- NDIA Participant Critical Incident Framework
- NDIA Complaints and Feedback Framework

### Other Joint protocol intersection

- NDIA and NDIS Commission Complaints Handling and Reportable Incidents Operational Protocol.
- NDIA and NDIS Commission Complex Supports Operational Protocol
- NDIA and NDIS Commission Data Access Transfer Operational Protocol
- NDIA and NDIS Commission Market Stewardship & Oversight
- NDIA and NDIS Commission Regulatory Interface Operational Protocol

## 3. Defining participant risk

The NDIA and the NDIS Commission have related but different roles in identifying, mitigating, and responding to participant risks. As the implementing agencies of the NDIS, there is a need to have a shared understanding of risk, to inform the sharing of information and how the agencies will work together to mitigate and respond to participant risks.

This shared understanding of risk will evolve over time as learnings are taken from participant/provider interactions, data analysis and research into best-practice. Further work will be done to define participant risk through the drafting of the NDIA Participant Safety Policy and the NDIS Commission Participants at Risk Policy.

It is important to note that a person's disability does not immediately infer that they are at risk of harm. However, a person's disability, combined with their individual circumstances, access to protective mechanisms and quality of supports might contribute to, or increase the potential risk.

At each stage of a participant's interaction in the NDIS, consideration must be given to how the participant's disability, personal history, personal circumstances and quality of supports might contribute to their level of risk and what the responsibilities of the NDIA and the NDIS Commission are to ensure that participant's safety.

## 4. Identifying NDIS participants at risk

The NDIA and NDIS Commission have developed and agreed upon participant risk indicators at both an individual and population level. Further improvement of data exchange and sharing between agencies has commenced under the existing NDIS Commission and NDIA Data Access Transfer Operational Protocol.

Current risk indicators within the NDIA were identified through five main sources:

1. Business intelligence
2. At-risk participant COVID response logic

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3. Service Experience
4. State/ Territory data transactions
5. Reviews into participant escalations (I.e. Robertson Review)

The risk indicators fall into six risk themes identified by the NDIA and NDIS Commission, as illustrated in Table 1. These themes are used to help inform risk assessment activities undertaken by NDIA and NDIS Commission and help identify where a participant may be at risk. Some of these indicators are available through data systems and some will be available through other reports and observations.

The list in Table 1 is not exhaustive and does not encompass all risk indicators. The list will be further refined at an Operational level to ensure its relevance for both NDIA and NDIS Commission staff. An additional table of NDIS Commission risk indicators is at [Appendix B](#).

The NDIA and NDIS Commission are committed to the sharing of data to support an integrated view of participant circumstances and the presence of any risk indicators. The NDIS Commission currently has access to the NDIS Search tool, which provides access to live NDIA data. Data sharing processes and definition of risk indicators will continue to be refined through regular reviews of this Joint Protocol.

**Table 1. Risk themes and indicators**

Heightened Risk theme	Definition	Risk indicators
Housing	A person who is homeless or is transient.	<ul style="list-style-type: none"> <li>• Answered “homeless” in the NDIA’s short form outcomes questionnaire.</li> <li>• Spent \$40,000 or more on Short Term Accommodation.</li> <li>• Participant is living alone and/or in inappropriate accommodation</li> <li>• At risk of entering (or re-entering) the criminal justice system</li> </ul>
Financial	A person with a history of, or susceptibility to financial abuse	<ul style="list-style-type: none"> <li>• Answered vulnerable to financial harm in the NDIA participant risk assessment tool</li> </ul>
Family and other Support Networks	A person who is at risk of undue influence, exploitation, or has a limited informal support or social network.	<ul style="list-style-type: none"> <li>• Participant has answer “Yes” to one of the following questions in the NDIA participant risk assessment tool: <ul style="list-style-type: none"> <li>- Vulnerable to undue influence that may present imminent or significant risk to self</li> <li>- Vulnerable to exploitation</li> </ul> </li> <li>• Participant has limited access to the community or social networks</li> <li>• Breakdown in family or other support networks</li> </ul>
Domestic violence situations	A person who is at risk of physical or mental harm and/or feels unsafe at home or the community.	<ul style="list-style-type: none"> <li>• Participant has answered “Yes” to one of the following questions in the NDIA participant risk assessment tool: <ul style="list-style-type: none"> <li>- Vulnerable to physical harm</li> <li>- vulnerable to mental harm</li> <li>- Unsafe in the home</li> <li>- Unsafe in the community</li> </ul> </li> <li>• Is subject to a Reportable Incident or Participant Critical incident regarding serious injury, abuse, neglect or sexual violence</li> </ul>
Health	A person with co-morbidities and/or a person who requires disability related health supports	<ul style="list-style-type: none"> <li>• Participant has had a service booking for a disability-related health support item within the past 12 months.</li> <li>• Participant requires support for High Intensity Daily Personal Activities</li> <li>• Participant has significant barriers to accessing health services</li> </ul>

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		<ul style="list-style-type: none"> <li>Participant is managing multiple or deteriorating health conditions</li> <li>Participant is subject to Reportable Incidents or Participant Critical Incidents regarding presentations to Emergency (unplanned hospital visits)</li> </ul>
Plan Issues	A person that is at risk of poor outcomes due to the inability to effectively use their plan	<ul style="list-style-type: none"> <li>Participant has not activated their plan within 3 months</li> <li>Participant is 'Unable to Contact'</li> <li>Participant has a pro-rata utilisation of less than 20%</li> <li>Participant has experienced an increase in support needs and their plan is no longer suitable</li> <li>Participant requires behaviour supports but does not have the relevant NDIS funding</li> </ul>

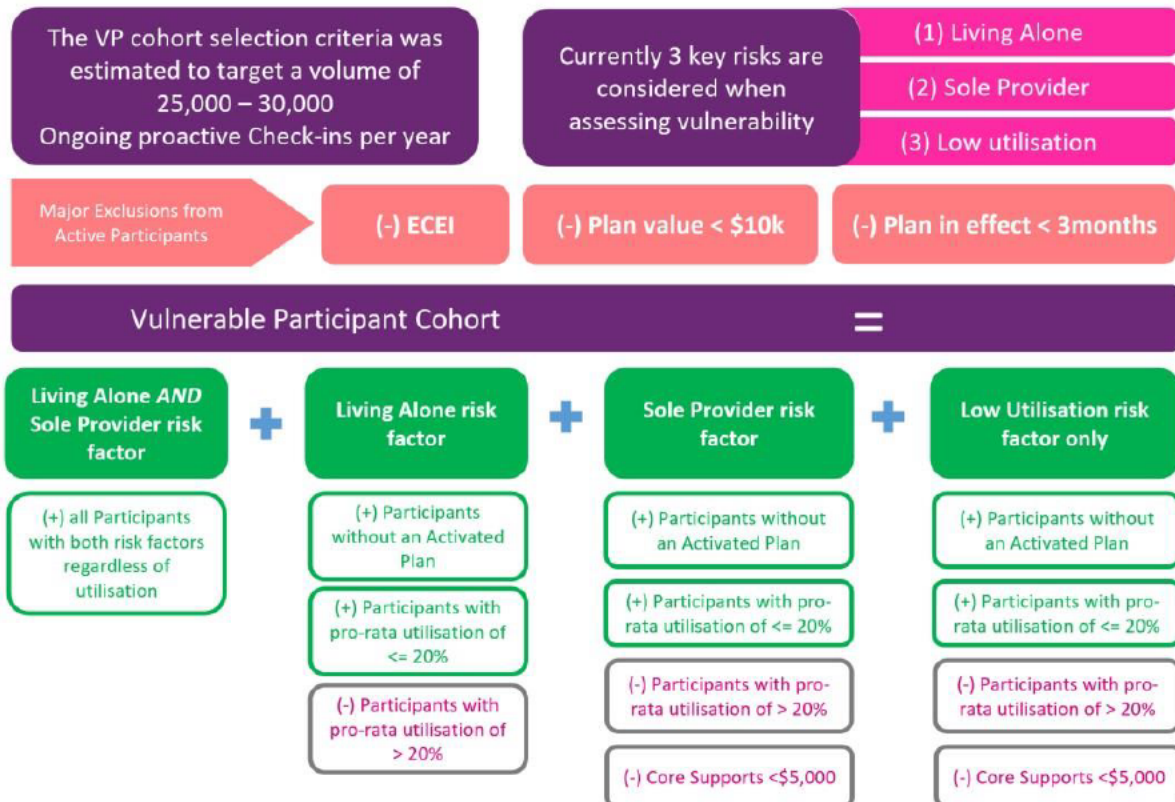
## 5. Joint Operational Response

This protocol seeks to embed a joint approach between the NDIA and the NDIS Commission to pre-empt and resolve risk affecting NDIS participants.

### Proactive operational response

#### NDIA Participant Check-ins

The NDIA's National Delivery teams proactively support participants through routine outbound calls called Participant Check-ins. Participant check-ins are generated by the NDIA business system and can occur more frequently where specific risk indicators are present.



**Figure 1. Criteria for frequent check-ins based on participant risk indicators**

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The Participant Check-in requires NDIA staff and partners to:

- Contact the participant to check their welfare and wellbeing
- Check the NDIS plan utilisation and connection with providers
- Check for other vulnerabilities/risks based on the risk indicators or other business intelligence
- Check participant record for any NDIS Commission related activities
- Engage a support coordinator (if required)
- Refer to mainstream or community services
- Refer relevant provider or worker quality and safety matters to the NDIS Commission
- Document and agree to the next check-in.

**NDIS Commission Site Visit Policy**

The NDIS Commission has responsibility to ensure NDIS providers are meeting their obligations. Whilst gathering and verifying information for the NDIS Commission, staff should visit sites where services are delivered wherever possible. Site visits provide a higher level of scrutiny through first-person observation and can identify risk where it may not have otherwise been visible.

In order to monitor compliance of providers, the NDIS Commission also has a role in directly engaging with participants, guardians and family members. This includes face to face visits where risk factors have been identified through local or national compliance activities and other regulatory functions.

A site visit can also be undertaken as a reactive response to a participant risk issue identified by the NDIS Commission or by the NDIA under this protocol, to monitor provider compliance with the NDIS code of conduct and, where applicable the NDIS practice standards.

**Reactive operational response****Existing Protocols:**

The NDIA and the NDIS Commission have a number of joint protocols that outline how the NDIA and the NDIS Commission will work collaboratively to perform individual and shared responsibilities under the National Disability Insurance Scheme Act 2013 (NDIS Act). All existing joint protocols can be found on each agency's intranet site, and are available internally to all staff.

The ***Complaints Handling and Reportable Incidents Operational Protocol*** sets out the agreed roles and responsibilities of the NDIA and the NDIS Commission in regards to the effective management and resolution of NDIA **participant critical incidents (PCIs)**, NDIS Commission **reportable incidents (RIs)** and **complaints**. The full definition of a PCI, RI and a complaint is outlined in the protocol.

Where a participant is identified as being at-risk and there is also a PCI, RI or a complaint, the Complaints Handling and Reportable Incidents Operational Protocol should be followed in the first instance.

The ***Complex Supports Operational Protocol*** sets out the agreed roles and responsibilities of the NDIA and the NDIS Commission in regards to participants who require behaviour supports and who may be subject to, or at risk of being subject to, restrictive practices.



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If the matter cannot be resolved via the existing joint protocols, staff can follow the Reactive Escalation response outlined within this protocol.

**Business As Usual:**

It is expected that matters identified as low risk can generally be managed via business as usual operations, without the need for a joint operational response.

Business as usual arrangements are the contacts, relationships and processes established by the NDIA, NDIS Commission and mainstream agencies. Business as usual arrangements recognise the practical benefit of close working relationships on the ground and resolving matters as close to the person as possible.

The vast majority of matters, including routine requests for updates related to a NDIS participant or a service provider, are to be resolved in line with the respective business as usual arrangements for the NDIA and NDIS Commission. They may include matters relating to NDIA access, planning and reviews, or provider-related queries or concerns.

**Joint Response:**

Where a participant is identified by either organisation as being at risk, and the related matter is not more appropriately responded to under an existing joint protocol, the NDIA and NDIS Commission have agreed to a tiered escalation response. This response is based on the NDIA Escalation prioritisation matrix at [Appendix A](#), and will be developed further, following workshops with operational leads.

**Low/Medium Risk Response**

Matters that are identified via the Escalation prioritisation matrix as **low** or **medium** risk are required to be addressed at the NDIA or NDIS Commission EL2 Director level or equivalent.

Matters may escalate to this level if they are unable to be resolved via BAU processes.

An initial response is due within 1-2 business days. A resolution, or significant progress toward a resolution, is due within three weeks.

**High Risk Response**

Matters that are identified via the Escalation prioritisation matrix as **high** risk are required to be addressed at the NDIA State/Branch Manager level, with escalation receipt and involvement from the NDIS Commission State/Territory Director or Branch Head Operations.

Matters may escalate to High risk if:

- They are unable to be resolved via a low/medium risk response
- There is a dispute existing over the interpretation or implementation of operational policy.
- There are complex issues relating to the Applied Principles and Table of Supports (APTOS)
- There are systemic provider issues, including regulatory non-compliance.

An initial response is due the same day. A resolution is due within 2 weeks or immediately as required.

**Extreme Risk Response****OFFICIAL**

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Matters that are identified via the Escalation prioritisation matrix as **extreme** risk should be escalated immediately. The matter will be addressed at the NDIA General Manager/NDIS Commission Branch Head Operations level or equivalent with notification to the following representatives:

- NDIA CEO, DCEO Participant Experience Delivery, General Manager National Delivery, and relevant State/Territory Manager
- NDIS Commissioner, Complaints Commissioner, and Senior Practitioner or Registrar where relevant.

An initial response is due within 2 hours. A resolution is due within 10 days or immediately as required.

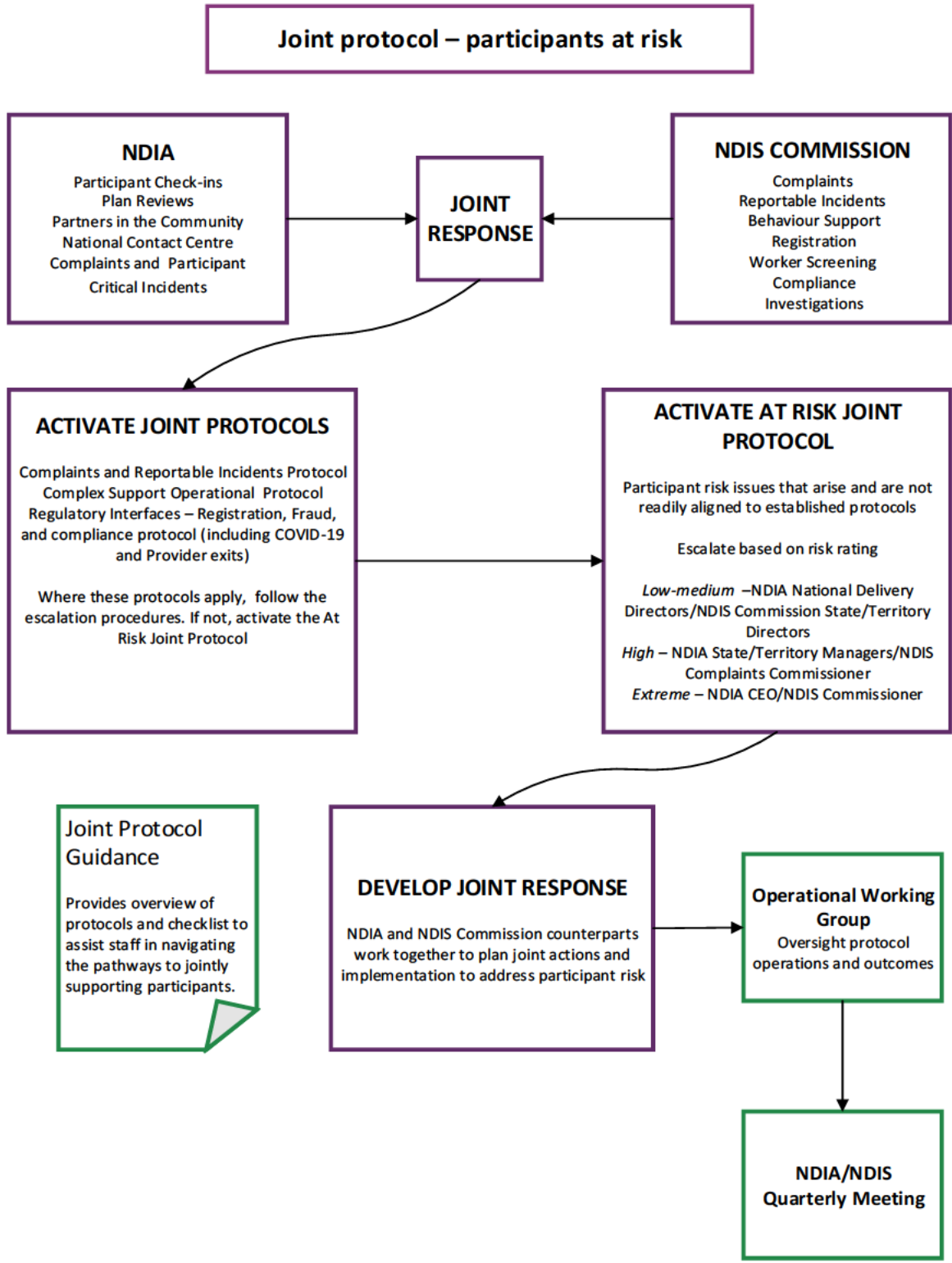


Figure 2 Joint Risk Response diagram

## 6. Governance

### Protocol maintenance

The Operational Protocol Secretariat will be responsible for establishing, maintaining, and completing protocol reviews through consultation between the NDIA and NDIS Commission business areas. Reviews for this protocol will occur no later than 6 monthly.

### Operational Working group

The NDIA and NDIS Commission business areas will meet every six weeks via a working group to:

- Develop work flow and work processes between the NDIA and NDIS Commission, for participants at risk, including a process for developing a joint response/plan.
- Develop shared understanding of data access and exchange to enhance each party's capacity to perform legislative functions and improve outcomes for participants.
- Ensure the operational protocol remains fit for purpose, documenting changes to each agency's own processes which may impact on the procedures outlined in this protocol.

### Regular Meeting Schedule

The working group will meet six-weekly, including relevant state and territory leads, to:

- reconcile and review participant data related at risk participants
- review current processes to work towards best practice; and
- set priorities for next quarter.

Outcomes of the meeting must include administrative actions as well as ensuring alignment and agreement of issues such as joint communication, provider and participant education and learning and development activities.

### Communication

Development of communication protocols is encouraged to establish effective working arrangements at the State and Territory level.

### Escalation

Issues arising from the shared work of the NDIA and NDIS Commission and operation of these protocols should be raised at the Branch Manager (SES Band 1) level. If the issue cannot be resolved, it will be escalated to General Manager (SES Band 2) level.

## 7. Related Documents

- NDIA Participant Critical Incident Framework
- NDIA Complaints and Feedback Framework
- NDIA Participant Safety Policy (coming soon)
- NDIS Commission Site Visit Policy
- NDIS Commission NDIS Search Tool Policy

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**Other Operational Protocols**

- Data Access and Transfer
- Complaints Handling and Reportable Incidents
- Complex Supports
- Regulatory Interfaces (Registration, Fraud and Compliance)
  - Addendum – Continuity of Supports
  - Addendum – Provider Exits
- Market Oversight

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## 8. Key Contacts

Agency	Name	Area of responsibility	Phone	Email
NDIA	Scott <small>S22(1)(a)(ii) - irrelevant material</small>	<b>Protocol Owner</b> General Manager, National Delivery SES Band 2, for Extreme Risk escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Scott. <small>S22(1)(a)(ii) - irrelevant material</small> @ndis.gov.au
NDIA	Melissa <small>S22(1)(a)(ii) - irrelevant material</small>	SES representative – At Risk participants SA State Manager, Service Delivery High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Melissa. <small>S22(1)(a)(ii) - irrelevant material</small> @ndis.gov.au
NDIA	Barbie <small>S22(1)(a)(ii) - irrelevant material</small>	A/g WA State Manager, Service Delivery High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Barbie. <small>S22(1)(a)(ii) - irrelevant material</small> @ndis.gov.au
NDIA	Des <small>S22(1)(a)(ii) - irrelevant material</small>	QLD State Manager, Service Delivery High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Desmond. <small>S22(1)(a)(ii) - irrelevant material</small> @ndis.gov.au
NDIA	Lisa <small>S22(1)(a)(ii) - irrelevant material</small>	NSW/ACT State Manager, Service Delivery High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Lisa. <small>S22(1)(a)(ii) - irrelevant material</small> @ndis.gov.au
NDIA	Ian <small>S22(1)(a)(ii) - irrelevant material</small>	TAS State Manager, Service Delivery High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Ian. <small>S22(1)(a)(ii) - irrelevant material</small> @ndis.gov.au

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NDIA	Tori <small>S22(1)(a)(ii) - irrelevant m</small>	VIC State Manager, Service Delivery High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Tori. <small>S22(1)(a)(ii) - irrelevant m</small> @ndis.gov.au
NDIA	Louise <small>S22(1)(a)(ii) - irrelevant</small>	Territory Manager ACT, Service Delivery High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Louise. <small>S22(1)(a)(ii) - irrelevant material</small> @ndis.gov.au
NDIA	Nathan <small>S22(1)(a)(ii) - irrelevant</small>	Territory Manager NT, Service Delivery High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Nathan. <small>S22(1)(a)(ii) - irrelevant</small> @ndis.gov.au
NDIA	Pippa <small>S22(1)(a)(ii) - irrele</small>	National Delivery Division support officer	<small>S22(1)(a)(ii) - irrelevant material</small>	Pippa. <small>S22(1)(a)(ii) - irrele</small> 2@ndis.gov.au
NDIA	Maddi <small>S22(1)(a)(ii) - irrelevant materia</small>	Director, Complaints pathway	<small>S22(1)(a)(ii) - irrelevant material</small>	Maddi. <small>S22(1)(a)(ii) - irrelevant materia</small> @ndis.gov.au
NDIA	Deb <small>S22(1)(a)(ii) - ir</small>	Branch Manager, Technical Advisory Branch (TAB)	<small>S22(1)(a)(ii) - irrelevant material</small>	Deb. <small>S22(1)(a)(ii) - ir</small> @ndis.gov.au
NDIA	Julie <small>S22(1)(a)(ii) - irrelevant</small>	Director, Complex Planning, (TAB)	<small>S22(1)(a)(ii) - irrelevant material</small>	Julie. <small>S22(1)(a)(ii) - irrelevant</small> @ndis.gov.au
NDIA	Katrin <small>S22(1)(a)(ii) - irreleva</small>	Assistant Director, Core/Complex Planning (TAB)	<small>S22(1)(a)(ii) - irrelevant material</small>	Katrin. <small>S22(1)(a)(ii) - irreleva</small> @ndis.gov.au
NDIS Commission	Sian <small>S22(1)(a)(ii) - irrelevant ma</small>	<b>Protocol Owner</b> Complaints Commissioner SES Band 2, for High and Extreme Risk escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Sian. <small>S22(1)(a)(ii) - irrelevant ma</small> @ndiscommission.gov.au
NDIS Commission	Philip <small>S22(1)(a)(ii) - irrelev</small>	Branch Head, North Central West (QLD, NT, SA, WA) National Reportable Incidents Operations High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Philip. <small>S22(1)(a)(ii) - irreleva</small> @ndiscommission.gov.au
NDIS Commission	Mahashini <small>S22(1)(a)(ii) - irrelevant</small>	A/Branch Head, South East (NSW, ACT, VIC, TAS) High Risk Escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Mahashini. <small>S22(1)(a)(ii) - irrelevant</small> @ndiscommission.gov.au
NDIS Commission	Robert <small>S22(1)(a)(ii) - irrel</small>	A/State Director QLD Low/medium Risk escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Robert. <small>S22(1)(a)(ii) - irrel</small> @ndiscommission.gov.au

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NDIS Commission	Valli <small>S22(1)(a)(ii) - irrelevant m</small>	State Director NT Low/medium Risk escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Valli. <small>S22(1)(a)(ii) - irrelevant m</small> @ndiscommission.gov.au
NDIS Commission	Carrie <small>S22(1)(a)(ii) - irrelevant m</small>	A/State Director WA Low/medium Risk escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Carrie. <small>S22(1)(a)(ii) - irrelevant m</small> @ndiscommission.gov.au
NDIS Commission	Tim <small>S22(1)(a)(ii) - irrele</small>	State Director SA Low/medium Risk escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Tim. <small>S22(1)(a)(ii) - irrele</small> @ndiscommission.gov.au
NDIS Commission	Andrew <small>S22(1)(a)(ii) - irrelevant male</small>	A/State Director TAS Low/medium Risk escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Andrew. <small>S22(1)(a)(ii) - irrelevant male</small> @ndiscommission.gov.au
NDIS Commission	Samantha <small>S22(1)(a)(ii) - irreleva</small>	State Director VIC Low/medium Risk escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Samantha. <small>S22(1)(a)(ii) - irrelevant</small> @ndiscommission.gov.au
NDIS Commission	Mahashini <small>S22(1)(a)(ii) - irrelevant</small>	State Director NSW/ACT Low/medium Risk escalations	<small>S22(1)(a)(ii) - irrelevant material</small>	Mahashini. <small>S22(1)(a)(ii) - irrelevant</small> @ndiscommission.gov.au
NDIS Commission	Rowena <small>S22(1)(a)(ii) - irrelevant materia</small>	Director, Participant Rights Policy, Markets and Insight Division	<small>S22(1)(a)(ii) - irrelevant material</small>	Rowena. <small>S22(1)(a)(ii) - irrelevant materia</small> @ndiscommission.gov.au
NDIS Commission	Miriam <small>S22(1)(a)(ii) - irrelevant material</small>	Assistant Director Participant Rights, Policy, Markets and Insight Division	<small>S22(1)(a)(ii) - irrelevant material</small>	Miriam. <small>S22(1)(a)(ii) - irrelevant material</small> @ndiscommission.gov.a u
NDIS Commission	Jan <small>S22(1)(a)(ii) - irrelevant</small>	National Director Complaints Strategy	<small>S22(1)(a)(ii) - irrelevant material</small>	Jan. <small>S22(1)(a)(ii) - irrelevant</small> @ndiscommission.gov.au

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## Appendix A

### Escalation prioritisation matrix\*

RISK	Low Timeframe: Contact/ Response – 2 days Resolution – 15 days	Medium Timeframe: Contact/ Response – 1 day Resolution – 15 days	High Timeframe: Contact/ Response – Same Day (or as specified) Resolution – 10 days (or as specified)	Extreme Timeframe: Contact/ Response– 2 hours (or as specified) Resolution – 10 days (or as specified)
Risk of harm to the health or well-being of a person	Absence of support or action is contributing to a general risk of harm.	Absence of support or action is contributing to a medium-term risk of harm.	Absence of support or action is contributing to a high risk of harm.	Absence of support or action is contributing to an immediate risk of harm.
Instability of accommodation arrangements of a person	The participant has a generalized risk of homelessness or inappropriate housing solution AND the NDIA has a role in working with State services to rectify.	The participant is at risk of homelessness or inappropriate housing solution in the medium term AND the NDIA has a role in working with State services to rectify.	The participant is at risk of homelessness or inappropriate housing solution in the short term AND the NDIA has a role in working with State services to rectify.	The participant is at risk of immediate homelessness AND the NDIA has a role in working with State services to rectify.
Instability in the informal support arrangements of a person	There is a risk of family or informal care breakdown and provision of supports may prevent such a breakdown.	Absence of supports is contributing to family or informal care breakdown OR such breakdown could be prevented by timely inclusion of supports.	Absence of supports is contributing to family or informal care breakdown OR such breakdown could be prevented by rapid inclusion of supports.	Absence of supports is contributing to an immediate risk of family or informal care breakdown.
Risk associated with the participant's health related supports	Absence or lack of certainty of continuation of supports is likely to contribute to deterioration or progression.	Absence or lack of certainty of continuation of supports is contributing to deterioration or progression of condition.	Absence of support is contributing to existing deterioration or progression of condition.	Absence of support is contributing to existing rapid deterioration or progression of condition.
Risk associated with the availability of plan funds to purchase supports	The plan will expire or funds will be exhausted within two weeks so that critical supports cannot be accessed	The plan will expire or funds will be exhausted within a week so that critical supports cannot be accessed.	The plan is about to expire or funds exhausted so that supports that are immediately needed cannot be accessed.	The plan has expired or funds exhausted so that critical supports that are immediately needed cannot be accessed.
Risk of harm to the health or well-being of a person	Absence of support or action is contributing to a general risk of harm.	Absence of support or action is contributing to a medium-term risk of harm.	Absence of support or action is contributing to a high risk of harm.	Absence of support or action is contributing to an immediate risk of harm.
Risk associated with the availability of providers, workers or other critical supports	The plan will expire or funds will be exhausted within two weeks so that critical supports cannot be accessed	The plan will expire or funds will be exhausted within a week so that critical supports cannot be accessed.	The plan is about to expire or funds exhausted so that supports that are immediately needed cannot be accessed.	The plan has expired or funds exhausted so that critical supports that are immediately needed cannot be accessed.

\*The matrix has been adjusted to only show risks (rows) that are relevant to this protocol

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## Appendix B

### NDIS Commission Risk Indicators (draft)

The NDIS Commission's approach to regulation is underpinned by the principles of the NDIS Quality and Safeguarding Framework. The Framework seeks to maximise a person's capacity to exercise choice and control and attempts to ensure that the regulatory mechanisms for preventing harm are based on the likelihood of harm occurring (risk) and its severity, and the impact this will have on their rights, choice, control, and dignity.

The NDIS Commission assesses risk to NDIS participants through a variety of means, including the operation of its functions, such as complaints, reportable incidents, behaviour support and registration and analysis of its data holdings. Assessment of increased risk to participants considers a range of indicators and informs the approach to supporting participants as well as regulatory activities with providers and workers.

The risk indicators listed below have been identified from a range of NDIS Commission policies and procedures that guide its regulatory operations. The list is not exhaustive and is intended to be refined through a range of processes, including through implementation of the *NDIA/NDIS Commission Operational Protocol for NDIS participants at risk*.

Risk theme	Description	Risk indicators
<b>Personal circumstances</b>	Risks related to a participant's personal circumstances and protective mechanisms	<ul style="list-style-type: none"> <li>Participant's family situation or informal support networks are breaking down.</li> <li>A participant has no informal support network, limited or no regular face to face contact with relatives, friends or other people whom the participant is well-acquainted</li> <li>Participant has limited access to the community or social networks</li> <li>Participant experiences significant barriers to accessing health services</li> <li>Participant is managing multiple or deteriorating health conditions</li> <li>Participant has had multiple presentations to Emergency (unplanned hospital visits)</li> <li>At risk of entering (or re-entering) the criminal justice system Participant requires the assistance of another person to facilitate physical mobility.</li> <li>Participant is living alone and/or in inappropriate accommodation, including transient living arrangements</li> </ul>
<b>Personal factors</b>	Personal factors and the nature of a person's disability that might indicate a higher risk of harm.	<ul style="list-style-type: none"> <li>The nature of a person's disability might: <ul style="list-style-type: none"> <li>mean they are entirely dependent on the support of others to undertake the most basic (and often intimate) life tasks, such as eating, toileting, personal care, mobility, eating, communication or taking medication;</li> <li>mean the person makes decisions that increases risk to themselves;</li> <li>affect the person's behaviour which might be self-injurious or a risk to the safety of others;</li> <li>put them at higher risk of poor health or particular conditions;</li> <li>limit their ability to communicate with other people (people who are non-verbal; people who rely on equipment to communicate; people who other people find hard to understand), or</li> <li>limit their movement or general mobility.</li> </ul> </li> </ul>
<b>Support factors</b>	Risks related to the extent a person relies on formal supports to live their lives	<ul style="list-style-type: none"> <li>Participants who receive high levels of support</li> <li>Participants who rely on supports for critical aspects of life</li> <li>Participants who need assistive technology to facilitate communication or movement</li> <li>Participants who need frequent supports (daily)</li> <li>Participants for whom the withdrawal of any or all support would result in a disruption to the essentials for daily life</li> </ul>
<b>Class of Supports</b>	The participant accesses types of support that are associated with elevated risks.	<ul style="list-style-type: none"> <li>Participant requires support for High Intensity Daily Personal Activities</li> <li>Participant is subject to the use of restrictive practices</li> <li>Participant only has a single provider or sole worker</li> <li>Participant lives in shared supported accommodation</li> <li>Supports are provided in a closed setting where access to the community needs to be facilitated.</li> <li>Participant requires supports to manage health related conditions identified in the Troller report which can indicate an increased risk of mortality (e.g. Epilepsy, dysphagia, meal time management)</li> </ul>
<b>Regulatory Oversight</b>	A person who is at risk due to being the subject of a Reportable Incident, Complaint or Restrictive Practices that indicates that there is limited capacity for the provider to keep the participant safe or the severity of the incident or situation indicates substantial risk	<ul style="list-style-type: none"> <li>Participant is the subject of a Complaint or Reportable Incident involving serious injury, abuse, neglect or sexual violence.</li> <li>A participant has been subject to an incident that may constitute a criminal offence, and or charges have been laid, or are likely</li> <li>A Participant is involved in an incident reported to the NDIS Commission requiring substantial and continuing involvement from other agencies due to the seriousness of the incident</li> <li>A participant resides where another participant has been the subject of a reportable incident or complaint where there is concern that a similar incident may occur placing them at risk</li> </ul>

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		<ul style="list-style-type: none"> <li>• A participant is the subject of a reportable incident or complaint where there are allegations that the provider has breached the NDIS Act, associated Rules or Code of Conduct, which indicates significant concerns about the quality of supports being provided, and immediate action is required to safeguard the health, safety and wellbeing of NDIS participants.</li> <li>• A participant is the subject of a complaint or reportable incident that raises issues that need substantial specialist consideration (including specialist medical advice, behaviour support) and relates closely to systemic risk factors (i.e. mealtime management)</li> <li>• A Participant is subject to unauthorised restrictive practices.</li> <li>• A Participant is subject to restrictive practices (either authorised or unauthorised) associated with elevated risk, such as: <ul style="list-style-type: none"> <li>○ The use of five or more medications, or two or more psychotropic medications, at the same time, (polypharmacy) and/or the use of Midazolam or Choral Hydrate</li> <li>○ Medication associated with the restrictive practice has not been reviewed within 12 months</li> <li>○ Multiple restrictive practices and/or restrictive practice types</li> <li>○ Frequent PRN usage (17 or more uses within a single month)</li> <li>○ Quality issues associated with the participant's behavior support plan</li> </ul> </li> <li>• A participant is subject to <a href="#">practices proposed to be prohibited</a>, including <ul style="list-style-type: none"> <li>○ Physical restraint or seclusion and under 18 years of age</li> <li>○ Participant is held face down to limit or control movement (prone restraint)</li> <li>○ Participant is held face up to limit or control movement (supine restraint)</li> </ul> </li> </ul>
<b>NDIS Commission Regulatory Intelligence</b>	A person who is identified as at risk based upon information held by the NDIS Commission	<ul style="list-style-type: none"> <li>• A participant is receiving supports from a provider where knowledge about the NDIS provider, including previous complaints received, their willingness and capacity to resolve complaints, their compliance history and other regulatory intelligence the NDIS Commission holds</li> <li>• A participant receives support from a provider where there are a substantial number of similar incidents with the same impacted participant or subject of allegation that are requiring further consideration as to patterns or trends.</li> <li>• A participant is supported by a provider where the NDIS Commission is not satisfied that the actions and response of the provider has mitigated the risk to participants</li> <li>• A participant is receiving supports from a provider that has not responded to an incident in a way that reduces the risk to all participants who may be at risk, and is not taking appropriate action to eliminate the ongoing risk</li> <li>• Participant has experienced an increase in support needs and their NDIS plan is no longer suitable</li> <li>• Participant requires behaviour supports but does not have the relevant NDIS funding and is subject to unauthorised restrictive practices</li> <li>• A participant has had their funding drawn by a provider, but no support issued</li> </ul>
<b>Market and quality issues</b>	A person at risk because of quality issues associated with the provider/s or workers providing supports, or due to market failure	<ul style="list-style-type: none"> <li>• Participant is plan managed or self-managed and potentially using unregistered providers</li> <li>• Participant is associated with a provider or worker subject to NDIS Commission compliance and/or enforcement action</li> <li>• Participant is using an unregistered provider who is not obligated to obtain a worker screening check.</li> <li>• Participant is unable to find an appropriate provider, or has one provider for multiple supports (e.g. thin markets, rural/remote)</li> <li>• Participant is accessing supports from a provider that is not registered for high-risk class of supports (eg implementing restrictive practices module 2A or High Intensity Daily activities (Module 1).</li> <li>• A participant receives supports from a provider where the information that the NDIS Commission holds suggests that the provider may not be willing and/or able to respond to an incident</li> <li>• A participant is receiving supports from a worker who has been excluded from working in risk assessed roles (worker screening)</li> </ul>